



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 16, 1994

Mr. Joseph I. Williams
Assistant University Counsel
University of Houston System
1600 Smith, Suite 3400
Houston, Texas 77002

OR94-245

Dear Mr. Williams:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 25712.

The University of Houston System (the "system") has received a request for "a record of all telephone calls and written communications made between officials of the University of Houston Athletics Department and officials of Austin Community College" between certain dates. You claim that the system is unable to respond to the request for telephone records. You have not raised any exceptions with respect to this information. You have also submitted a letter to this office for our review.¹ You claim it is excepted from required public disclosure under section 552.114 of the act.

With regard to the telephone records, you originally stated in a letter to this office that they "cannot be made available in the form requested by the requestor, because we are unable to determine from our telephone logs the origin or recipient of calls without specific numbers for ACC." Subsequently, the requestor gave this office a list of specific telephone numbers, which we forwarded to your office. You continue to maintain, however, that the records do not exist in the form requested:

¹This office recently contacted you to determine whether there is any other correspondence responsive to the request. Because we have not heard from you, we assume that there is no other correspondence. To the extent that such correspondence exists, the system has waived the right to withhold any nonconfidential information it contains.

The records which the University of Houston maintains contain a record of all telephone calls placed from the athletic department. We have no way, other than by manually searching, to identify calls to Austin Community College According to the athletic department there are 93 phone[s] in the department and the telephone bill each month is approximately 320 pages.

You estimate that the system would have to produce approximately 600 records in order to respond to the request. You ask if the system is permitted to produce the records in the form in which they are maintained. It is well-established that the act does not require a governmental body to organize information in a particular way pursuant to a request from a member of the public. Open Records Decision Nos. 599 (1992); 467 (1987). We suggest that you contact the requestor to notify him of the estimated cost of producing the records and to discuss possible ways to narrow the scope of the request.²

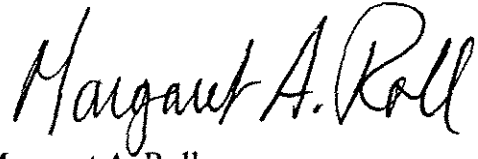
Next we consider whether the letter submitted to this office is excepted from required public disclosure under section 552.114 of the act. Section 552.114 excepts from required public disclosure student records of educational institutions funded by state revenue. In addition, section 552.026 of the act incorporates the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, into the act. FERPA prohibits an educational institution that receives federal revenue from releasing "education records" without written consent. 20 U.S.C. § 1232g(b)(1). "Education records" are defined as records that contain information directly related to a student and that are maintained by an educational institution. *Id.* § 1232g(a)(4)(A). Information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision No. 332 (1982); 206 (1978). This office generally applies the same analysis under section 552.114. Open Records Decision No. 539 (1990).

The letter contains information directly related to a particular student and is maintained by the system. Therefore, it is an education record under section 552.026 and a student record under section 552.114. In addition, you and the requestor have established that the identity of the student to whom the letter pertains is apparent from the letter as a whole and the circumstances of the request. Therefore, the letter could not be de-identified by simply redacting the student's name and other information from the letter, and federal law, as well as the Open Records Act, requires that you withhold the letter in its entirety.

²For example, the telephone records appear to list calls made each day by telephone extension. The requestor might be able to further narrow his request by identifying particular extension numbers in which he is interested.

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Margaret A. Roll". The signature is written in a cursive style with a large, stylized "M" and "R".

Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/MRC/rho

Ref.: ID# 25712

Enclosures: Submitted documents

cc: Mr. Richard Manson
2204 Shiloh Drive
Austin, Texas 78745
(w/o enclosures)